GILSHENAN & LUTON
LEGAL PRACTICE

Major changes to anti-money laundering and counter-terrorism financing regime from 2026

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From 2026, major reforms to Australia's anti-money laundering and counter-terrorism financing laws will come into effect, expanding obligations and enforcement powers. These changes will impact a wider range of businesses, including lawyers, accountants, and real estate professionals, who may now be classified as 'reporting entities'.

This article breaks down what's changing, who's affected, and what new compliance measures will be required.

The *Anti-Money Laundering and Counter-Terrorism Financing Amendment Act 2024* (the Amendment Act) passed parliament on 29 November 2024, introducing significant changes to the Australia's anti-money laundering (AML) and counter-terrorism financing (CTF) regime.

The reforms substantially amend the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) ('the Act') both with respect to how Australia's AML/CTF regime applies to existing in-scope entities, but also by greatly broadening the scope of entities that will be covered by the regime.

More professions now considered 'reporting entities' due to providing designated services

As a result of the changes, several professions may now be considered 'reporting entities' and be captured by the Act, including solicitors, real estate professionals, and accountants.

The anti-money laundering and counter-terrorism financing (AML/CTF) provisions work on a framework of ‘designated services’. If you provide designated services in Australia, you have AML/CTF obligations. Designated services are business activities that pose a risk for money laundering and terrorism financing. Examples include financial services, trading bullion, and gambling services.

If carrying out a ‘designated service’, a company will need to comply with AML/CTF obligations, including reporting, record-keeping, and having an AML/CTF program.

Reporting obligations

If carrying out a ‘designated service’, a company will need to report ‘threshold transactions’ and ‘suspicious matters’. Threshold transactions are defined in section 5 of the Act as those transactions involving the transfer of physical currency where the total amount is not less than $10,000 (AUD).

A suspicious matter will arise, and an entity will need to submit a suspicious matter report to AUSTRAC, if they or anyone in the business or organisation suspects on reasonable grounds that a customer is not who they claim to be, or the designated service relates to any one of the following:

- terrorism financing;
- money laundering;
- an offence against a Commonwealth, State or Territory law;
- proceeds of crime;
- tax evasion.

Record keeping obligations

When providing ‘designated services’, reporting entities are required to collect and verify information about customers/clients. The actual methods and processes for these checks remain at the discretion of the entity. They will also need to comply with annual reporting requirements via AUSTRAC Online.

Risk and compliance requirements

The new AML/CTF regime requires reporting entities to develop and maintain an AML/CTF program that includes the following:

1. Customer due diligence (CDD) procedures;
2. Ongoing customer due diligence;
3. Risk assessments for money laundering and terrorism financing;
4. Appointment of an AML/CTF compliance officer;
5. Regular staff training on AML/CTF obligations;

6. Independent review of the AML/CTF program.

AUSTRAC powers

Australian Transaction Reports and Analysis Centre is an Australian government financial intelligence agency (AUSTRAC).

AUSTRAC has a dual role as both Australia's financial intelligence law enforcement agency and AML/CTF regulator.

The Act significantly expands the scope of AUSTRAC's investigation and enforcement powers, including by providing AUSTRAC with new examination powers similar to those currently in place for the Australian Securities and Investments Commission (ASIC). It has also been granted additional information-gathering powers relating to intelligence on money laundering and terrorism financing, proliferation financing and other serious crimes.

AUSTRAC is now permitted to issue notices to *anyone* reasonably believed to have relevant information, not just reporting entities.

AUSTRAC examination powers

Under the Act, where the AUSTRAC CEO (or their delegate) believes on reasonable grounds that a person has information or documents that are relevant to compliance with the AML/CTF regime, the AUSTRAC CEO may, by written notice, require the person to produce documents or appear before an examiner for examination.

The Act sets out a framework for the conduct of examinations:

- Examinations are to take place in private;
- An examinee's lawyer may intervene to address the examiner or examine the examinee; and
- Examinations may be recorded.

Importantly, there has been an abrogation of the privilege against self-incrimination. This means that individuals may be required to provide documents or answers to AUSTRAC, even if doing so may incriminate them. While such evidence is admissible in proceedings relating to money laundering, terrorism financing, or proliferation financing, it **cannot** be used in unrelated criminal proceedings.

A person who does not comply with a section 172A notice to disclose documents or attend an examination, may be charged with an offence that carries a maximum penalty of two years imprisonment or 100 penalty units (i.e. currently up to $33;000).

Summary

The new Commonwealth anti-money laundering provisions represent a significant shift in Australia's approach to combating financial crimes. Businesses must ensure they understand and implement these new requirements to avoid severe consequences.

If you, or any of your staff members are given a notice to disclose documents or attend an examination with AUSTRAC, we recommend seeking legal advice as soon as possible. We can assist you in responding to that request and attending the examination with you.

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